

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

UNITED STATES OF AMERICA

v. **No. 4:20-CR-00185-01-JM
4:25-CV-00832-JM**

KEVIN BAILEY

ORDER

For the reasons set out below, Defendant's Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 (Doc. No. 80) is DENIED.

On January 19, 2022, Defendant pleaded guilty to being a felon in possession of a firearm.¹ On June 14, 2022, he was sentenced under the Armed Career Criminal Act to 180 months in prison.² The Court of Appeals for the Eighth Circuit affirmed on July 26, 2023.³

Defendant's only claim relies on *Erlinger v. United States*,⁴ which held that a jury must determine whether ACCA predicate offenses were committed on separate occasions. Because *Erlinger* was not made retroactive to cases on collateral review, Defendant is not entitled to relief.⁵

IT IS SO ORDERED this 19th August, 2025.



UNITED STATES DISTRICT JUDGE

¹ Doc. No. 38.

² Doc. Nos. 52, 53.

³ Doc. No. 68.

⁴ 602 U.S. 821 (2024).

⁵ *United States v. Watkins*, No. 1:21-CR-010, 2025 WL 786579, at *3 (D.N.D. Mar. 12, 2025) (citing cases).